

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-1473**

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MICHAEL W. DAVIS,

Plaintiff - Appellant,

versus

BOWMAN APPLE PRODUCTS COMPANY, INCORPORATED;  
BOWMAN APPLE PRODUCTS PROFIT SHARING PLAN AND  
TRUST,

Defendants - Appellees.

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Appeal from the United States District Court for the Western  
District of Virginia, at Harrisonburg. James H. Michael, Jr.,  
Senior District Judge. (CA-00-33-5)

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Submitted: October 23, 2002

Decided: November 13, 2002

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Before WILLIAMS and GREGORY, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Thomas M. Lawson, Ann K. Crenshaw, LAWSON & SILEK, P.L.C.,  
Winchester, Virginia, for Appellant. Thomas E. Ullrich, Dana R.  
Cormier, WHARTON, ALDHIZER & WEAVER, P.L.C., Harrisonburg,  
Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Michael W. Davis appeals the district court's order adopting the recommendation of the magistrate judge and granting Appellees' motion for summary judgment, thereby dismissing Davis' complaint for declaratory judgment on statute of limitations grounds. In his complaint, Davis alleges a violation of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq. We affirm.

This Court reviews an award of summary judgment de novo. Higgins v. E.I. DuPont de Nemours & Co., 863 F.2d 1162, 1167 (4th Cir. 1988). Summary judgment is appropriate only if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). The evidence is viewed in the light most favorable to the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986).

With these standards in mind, we affirm on the reasoning of the district court. Davis v. Bowman Apple Products Co., Inc., No. CA-00-33-5 (W.D. Va. Mar. 29, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED